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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,293	12/30/1999	FEN-CHUNG KUNG	IDS1999-0304	6175

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EXAMINER
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DUONG, FRANK

ART UNIT	PAPER NUMBER
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2666

13

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/475,293

Applicant(s)

KUNG ET AL.

Examiner

Frank Duong

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2666

*fr*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) 9-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2, 6-8.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office Action is a response to the Election dated 5/11/04. Elected claims 1-8 and non-elected claims 9-70 are pending in the application. In a response to this Office Action Applicants should cancel the non-elected claims 9-70 to expedite the prosecution, should the response place this application in a favorable condition for allowance.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 06/04/04 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. It has been considered and placed in the application file.

3. The information disclosure statement filed 05/20/03 is considered as following:

Listed US patents comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609; thus, considered.

Listed Foreign Patent Documents and Other Prior Art-Non Patent Literature Documents not comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there are no copies provided; thus, not considered. It has been partially considered and placed in the application file.

4. The information disclosure statement filed 10/15/02 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. It has been considered and placed in the application file.

5. The information disclosure statement filed 03/28/00 is considered as following:

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Listed US patents comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609; thus, considered.

Listed Foreign Patent Documents and Other Prior Art-Non Patent Literature Documents not comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there are no copies provided; thus, not considered. It has been partially considered and placed in the application file.

### ***Drawings***

6. The drawings were received on 07/27/01. These drawings are approved.

### ***Specification***

7. The abstract of the disclosure is objected to because it exceeds 150 words in length. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

8. Claim 2 is objected to because of the following informalities: line 4, "a said one" should read --said one--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Edell et al (INDEX: A Platform for Determining how People Value the Quality of their Internet Access, IEEE, pages 1-7, May 1998) (hereinafter "Edell").

Regarding **claim 1**, in accordance with Edell reference entirety, Edell discloses a method of logging and using information related to communication activity in an integrated broadband communication system (page 3, Figure 1), comprising the steps of:

creating an activity log (monitor and record) for a user's system address that logs one of all incoming and outgoing communications of more than one type of media including telephone, text data, and multimedia video and audio (*page 3, section 2.2, last paragraph; Edell discloses user traffic is monitored and recorded in a database for billing and analysis purposes. The database contains information to include connection length, the amount of inbound and outbound traffic for the connection, and other data describing the type of user activity. The recitation thereat reads on the claimed limitations in a manner as recited*).

Regarding **claim 2**, in addition to features recited in base claim 1 (see rationales discussed above), Edell further discloses determining if there is said one of an incoming and outgoing communication for a user's system address (*record at what time users change their QoS choices*); and creating a new record for said activity log if there is a said one of an incoming and outgoing communication, said new record relating to said one of an incoming and outgoing communications (*infer what parameters influence*

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*these decisions and what the reasons for these changes) (page 3, section 2.2, last paragraph).*

Regarding **claim 3**, in addition to features recited in base claim 2 (see rationales discussed above), Edell further discloses determining if there is a connection identifier for said one of an incoming and outgoing communication for a user's system address (*source and destination IP addresses, port numbers*); and entering said connection identifier into said new record if there is one of said connection identifier for said one of an incoming and outgoing communication (*record at what time user changes their QoS choices*) (*page 3, section 2.2, last paragraph*).

Regarding **claim 4**, in addition to features recited in base claim 3 (see rationales discussed above), Edell further discloses determining if there is supplemental information available for said connection identifier (*other data describing the type of user activity*); and entering said supplemental information into said new record if said supplemental information is available (*record at what time user changes their QoS choices*) (*page 3, section 2.2, last paragraph*).

Regarding **claim 5**, in addition to features recited in base claim 4 (see rationales discussed above), Edell further discloses determining if there is billing information available for said one of an incoming and outgoing communication (*user traffic is monitored and recorded for both billing purposes and offline analysis*); and entering said billing information into said new record if there is billing information available for said one of an incoming and outgoing communication (*it is important to collect data at this level of detail in order to not only record at what time users change their QoS choices,*

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*but also infer what parameters influence these decisions) (page 3, section 2.2, last paragraph).*

Regarding **claim 6**, in addition to features recited in base claim 5 (see rationales discussed above), Edell further discloses closing and saving said new record in said activity log (*page 3, section 2.2, last paragraph*).

Regarding **claim 7**, in addition to features recited in base claim 6 (see rationales discussed above), Edell further discloses providing a graphical user interface for accessing said activity log to said user (*page 3, section 2.2; Figure 2*).

Regarding **claim 8**, in addition to features recited in base claim 7 (see rationales discussed above), Edell further discloses enabling said user to initiate a new communications session by access and selecting said saved record from said activity log using a telephone (*the subject [user] can choose a service quality by the click of a button and change their quality of service even during the active session*) (*page 3, section 2.2, right column*).

### **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Edell et al, Providing Internet Access: What we learn from the INDEX Trial, Berkeley University, pages 1-17, April 16, 1999.

10. Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to Frank Duong whose telephone number is (703) 308-5428. The examiner can normally be reached on 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (703) 308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Frank Duong  
Examiner  
Art Unit 2666

July 19, 2004